

2015

## State of Utah v. Paul Raymond Jaramillo

Utah Court of Appeals

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# STATE OF UTAH

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FILED  
UTAH APPELLATE COURT

NOV 10 2015

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November 10, 2015

Ms. Lisa Collins  
Clerk, Utah Court of Appeals  
450 S. State  
P. O. Box 140210  
Salt Lake City, UT 84114-0210

RE: Supplemental Authority  
*State v. Jaramillo*, Case No. 20130988-CA

Dear Ms. Collins:

The State submits this letter of supplemental authority pursuant to Rule 24(j), Utah Rules of Appellate Procedure. Oral argument occurred this morning in the above matter. During Appellant's rebuttal argument, a question arose concerning whether Appellant's trial counsel knew about a particular report which indicated that Appellant had benzodiazepine in his system when he was admitted to the hospital following the charged conduct. Presiding Judge J. Frederic Voros quoted from the sentencing transcript in which defense counsel explained that Appellant had obtained a Xanax prescription (a benzodiazepine-based medication) and, on the day in question, took more than one. R451:5. Opposing counsel commented that there was no other indication that trial counsel knew of the report confirming benzodiazepine in Appellant's system.

In fact, the defense was well aware of the report earlier, as indicated by the transcript of the second day of trial. The trial judge called a bench conference during defense counsel's cross-examination of a responding officer about whether he had obtained any information concerning Appellant's state of intoxication. R449:41-42. Defense counsel responded to an inaudible comment

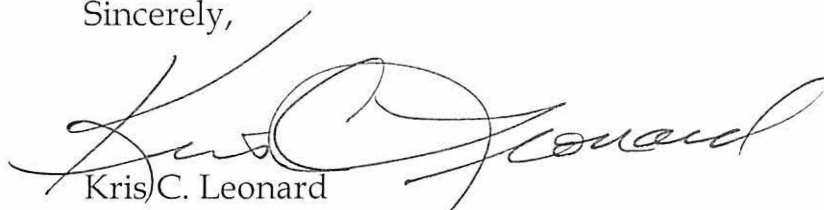
November 10, 2015  
Page 2 of 2

by the prosecutor by stating, "How? You have to run a blood test, and we have a blood test that shows he was, had these intoxicating, he had benzodiazepines in his blood." R449:44. Appellant has proffered only one report which includes that fact.

Further, opposing counsel indicated in rebuttal that the report supported his claim that Appellant took all 15 prescribed pills. The report provides no such support because: 1) Appellant could not have ingested all 15 pills when his expert acknowledged that an "unknown quantity of alprazolam (Xanax) was found" on Appellant's person at the hospital (Report of Dr. Bone, p5); 2) the report includes no suggestion that the benzodiazepine level required emergency procedures for combating an overdose; and 3) a positive result would be expected if Appellant ingested the prescribed amount of Xanax.

Copies of the relevant pages are attached. Please don't hesitate to call if you have questions.

Sincerely,



Kris C. Leonard  
Assistant Attorney General

enc.

cc: David M. Corbett, Craig L. Pankratz, counsel for appellant

37845

THIRD JUDICIAL DISTRICT COURT  
FOR SALT LAKE COUNTY, STATE OF UTAH

FILED DISTRICT COURT  
Third Judicial District  
DEC 11 2013  
SALT LAKE COUNTY

STATE OF UTAH,

PLAINTIFF,

VS.

PAUL RAYMOND JARAMILLO,

DEFENDANT.

Case No. 101903165

SENTENCING

BEFORE THE HONORABLE DENISE P. LINDBERG

SCOTT M. MATHESON COURTHOUSE  
450 SOUTH STATE STREET  
SALT LAKE CITY, UTAH 84111

SEPTEMBER 16, 2013

TRANSCRIBED BY: Susan S. Sprouse, RPR, CSR

FILED  
UTAH APPELLATE COURTS

JAN 14 2014

20130988-CA

56 - (NO 2-0-

1 almost impossible to proceed with. So I think that's important  
2 for you to note.

3 One other thing that relates to this is the day  
4 before this incident, Mr. Jaramillo had actually gone to a  
5 hospital, Ogden Regional Medical Center and at the hospital he  
6 was very anxious. He was -- he was acting somewhat delusional.

7 And that doctor prescribed him Xanax literally a day  
8 before this incident. He also noted that Mr. Jaramillo was  
9 bipolar.

10 Mr. Jaramillo had never taken Xanax. On this date,  
11 your Honor, he took Xanax. He took more than one Xanax. And  
12 we firmly believe that's why he was acting like he was acting.

13 I know in the trial not a lot was allowed to be  
14 brought out but clearly Natasha through the preliminary hearing  
15 and through other testimony had said that Mr. Jaramillo was  
16 extremely out of it, that he would be slightly aggressive and  
17 that he would be passing out in the vehicle.

18 We also had Reed Jenkins who told the cops on scene  
19 that it appeared that he was high on alcohol and drugs. I also  
20 feel that the video clearly showed how out of it he was in this  
21 case. I mean his mannerisms, his actions were all very  
22 bizarre. He gave money to pay for gas and then had the  
23 interaction with Reed Jenkins. We had the people in Wendy's  
24 just kind of laughed at him and ran out the back door.

25 And so I truly believe that Mr. Jaramillo was, was

37847

IN THE THIRD JUDICIAL DISTRICT COURT - SALT LAKE  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

STATE OF UTAH,

Plaintiff,

vs.

PAUL RAYMOND JARAMILLO,

Defendant.

Case No. 101903165

Transcript of:

JURY TRIAL

BEFORE THE HONORABLE DENISE P. LINDBERG

SCOTT M. MATHESON COURTHOUSE  
450 SOUTH STATE STREET  
SALT LAKE CITY, UTAH 84114-1860

JUNE 26, 2013

FILED  
UTAH APPELLATE COURTS

JAN 14 2014

20130988-01

FILED DISTRICT COURT  
Third Judicial District

TRANSCRIBED BY: BRAD YOUNG

DEC 19 2013

SALT LAKE COUNTY

By: \_\_\_\_\_ Deputy Clerk

ORIGINAL

670-1100-0-0-449

1 Q. But you also investigate?

2 A. Not at the same time. I can't do that.

3 Q. I understand.

4 MS. GOMEZ: Your Honor, I'm going to object, it's  
5 argumentative at this point and asked and answered.

6 THE COURT: Sustained.

7 Q. Tell me what -- tell me what you did after you  
8 secured medical care for the defendant.

9 A. Okay. At that point I went over to speak with my  
10 partner. There were several witnesses on scene. And to see if  
11 I could figure out what had happened and what -- how this whole  
12 thing got started, identify witnesses.

13 Q. And during that time it came to your attention that  
14 Paul was suspected of being high?

15 MS. GOMEZ: I'm going to object, your Honor, to  
16 foundation.

17 THE COURT: Sustained, no foundation.

18 Q. Did you -- did you learn of any evidence while you  
19 were there on scene that Paul was suspected of being  
20 intoxicated?

21 MS. GOMEZ: Objection, foundation.

22 THE COURT: Sustained. Counsel, rephrase.

23 Q. What did you discover about Mr. Jaramillo while you  
24 were on the scene?

25 A. Um, about him personally or about what had gone on?

1 Q. What had gone on.

2 A. Okay. I was told --

3 MS. GOMEZ: Objection, hearsay.

4 THE COURT: Sustained.

5 Q. You don't have to tell me what you were told. I just  
6 want to know what you discovered.

7 MS. GOMEZ: And, your Honor, I think that calls for  
8 hearsay. It's the -- it's the same objection.

9 THE COURT: It is, but as you know it's a fine line.  
10 He can indicate what he did pursuant to information that he  
11 received and what he did with that. That, he can address  
12 without crossing the hearsay barrier.

13 MR. SALCIDO: Given that, I'm going to withdraw my  
14 question.

15 THE COURT: Okay.

16 Q. And I'm going to ask you straight out, did any  
17 witness tell you --

18 MS. GOMEZ: Objection, hearsay.

19 MR. SALCIDO: I'm not offering this for its truth.  
20 I'm offering it -- I want to know what he did with this  
21 information.

22 THE COURT: Well, first of all, counsel, approach.

23 (Discussion at the bench.)

24 THE COURT: (Inaudible) just a minute. (Inaudible)  
25 difference between (inaudible) and bizarre (inaudible) and



1 being suspected of being high or being intoxicated. There is  
2 no testimony that I am aware of that he was high, that he was  
3 intoxicated. Nobody has identified smelling anything on him.  
4 Nobody (inaudible). The only thing we know is that his conduct  
5 was bizarre and it struck people as bizarre. That is all. So  
6 your question, which is intended to (inaudible) of the jury  
7 that he was intoxicated is inappropriate. You can address  
8 (inaudible) I think it's fair to say there has been testimony  
9 that some of Mr. Jaramillo's conduct was bizarre or was odd,  
10 but --

11 MR. SALCIDO: Here's -- here's --

12 THE COURT: What did he do about investigating that,  
13 if anything? I think that's a fair question. But I don't want  
14 you suggesting through your questioning what there has been no  
15 foundation for.

16 MR. SALCIDO: I'm trying to (inaudible) because my  
17 client was life-flighted, I need to know if they passed on  
18 information that these witnesses suspected that he was  
19 intoxicated, but I need to know what he did with that  
20 information, because if that wasn't passed on -- I mean --

21 THE COURT: Okay. Then I think you need to voir dire  
22 outside the presence of the jury and determine whether if there  
23 was anything -- whether the paramedics --

24 MR. SALCIDO: He was unconscious. There were no  
25 statements made by my client.

1 MS. GOMEZ: (Inaudible).

2 MR. SALCIDO: How? You have to run a blood test, and  
3 we have a blood test that shows he was, had these intoxicating,  
4 he had benzodiazepines in his blood.

5 MS. GOMEZ: (Inaudible).

6 MR. SALCIDO: No, I don't. But I can provide this  
7 evidence to show what he did with it. I'm not offering it for  
8 its truth. You have medical records, you have a U of U  
9 hospital involved. He is life-flighted. What information did  
10 law enforcement give to him?

11 THE COURT: If he had any. You are assuming.

12 UNIDENTIFIED MALE SPEAKER: That's what I am asking.

13 THE COURT: And I will take the jury out, you can  
14 voir dire and establish foundation that satisfies me.

15 MR. SALCIDO: Okay.

16 THE COURT: Okay. Ladies and gentlemen, I'm going to  
17 need to take a -- a few moments, I'm not sure exactly how long  
18 it will be, with counsel, to resolve an issue, and so I am  
19 going to take a recess. I think it would probably be most  
20 comfortable for you to be in the jury room and give me the  
21 opportunity to speak with counsel. So I'm admonishing you,  
22 don't discuss the case, don't make up your minds, don't attempt  
23 to investigate. Reserve all judgment until all the evidence is  
24 presented.

25 Please rise for the jury.